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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House gave final reading to H.4115 which, as amended, prohibits the state of South Carolina and its political subdivisions from using race, sex, color, ethnicity, national origin religion, age, or disability as a criterion for either discriminating against or granting preferential treatment to any individual or group in the state's system of public employment, education, or contracting. The legislation applies only to actions taken following the enactment of the bill, and does not preclude adherence to pertinent court orders or consent decrees. The bill provides that employment of quotas to achieve equality is prohibited. The legislation specifically does not preclude state employees from performing their responsibilities in submitting required Affirmative Action Plans to the Human Affairs Commission. The bill also provides that no preferential treatment may be granted to the families of members of the General Assembly in public employment by the state or its political subdivisions.

The House concurred in Senate amendments to H.3908 and enrolled the bill for ratification. The bill concerns the seizure and sale of property in instances of delinquent property taxes and provides alternative sites other than the county courthouse for the sale of delinquent property. An amendment concerning bingo licenses was added to the bill. The amendment would allow specified charitable organizations to obtain a bingo license for \$100. Among other requirements, the organization must only use volunteer members who operate the game and the holder of the license may not conduct more than one bingo session a week.

The House appointed members to a conference committee to reconcile House and Senate differences on H.3300 which pertains to the issuance of special motor vehicle license plates.

The House amended and approved S.1031 which revises requirements for the STAR Diploma. Honors courses where grade point averages are adjusted to reflect greater difficulty are included with advanced placement and international baccalaureate courses. Special waivers from certain requirements are provided for graduating high school seniors of school years 1997-98 and 1998-99, only. The House amended the bill to provide that graduating high school seniors of school years 1997-98 and 1998-99 may be granted a waiver of the additional mathematics or the additional computer science units required for eligibility for the STAR Diploma.

The House amended and gave final reading to H.3792 which provides that any workers' compensation insurance carrier which writes business in the state's voluntary market must also participate in the residual market assigned risk pool and pay any assessments. Mandatory participation becomes effective January 1, 2000. The bill clarifies that the Director of the Department of Insurance may order an assigned risk plan if he finds that insurers have failed to establish a method of assigning risks among themselves. The Assigned Risk Plan must make use of self-sustaining rates.

The House amended and sent to the Senate H.4377 which establishes a new tier of licensure as a "Licensed Specialist in School Psychology" which may be obtained by an individual who has a master's degree in psychology and thirty additional hours of course work, and which authorizes the individual to offer his services in the private sector. Under current law, the "school psychologists" who are certified by the Department of Education to work in the public school system may not offer their services in private sector settings such as hospitals, clinics, private schools, etc. This legislation provides guidelines for the private sector service of Licensed Specialists in School Psychology. A Licensed Specialist in School Psychology is added to the Board of Examiners for the Licensure of Professional Counselors, Associate Counselors, Marital and Family Therapists. An amendment approved the House specifies that the bill in no way requires insurance companies to pay for any services of Licensed Specialists in School Psychology. The House also amended the bill to allow school districts which contract with licensed specialists in school psychology to require, at the time of contract renewal, notification of the intent to practice in the private sector.

The House amended and sent to the Senate H.3820 which prohibits the practice of psychology without a license from the Board of Psychology and revises the list of acts which are considered to be the practice of psychology. Under the bill, an individual must have a doctoral degree in psychology in order to be licensed as a psychologist, but such licensure cannot be obtained with a doctoral degree in an allied field. The legislation revises exemptions to the licensure requirement and increases penalties for violating the requirement. The bill requires the Board of Psychology to report instances of possible violations to the solicitor. The amendment approved by the House exempts from the licensure requirement certain groups including: educators; day care providers; hospital workers providing intervention within their employ; human resources professionals; business consultants; local, state, or federal employees operating within the scope of their employment; SC Department of Alcohol and Drug Abuse employees; and school psychologists when working under contract to a public or private school, but not if practicing in other settings.

The House approved H.3382 which exempts antique slot machines from the prohibition on the possession of certain types of gaming machines.

The House adopted Concurrent Resolution H.4495 which requests the Commissioner of the SC Department of Health and Environmental Control impose a moratorium through February 1, 1999, on issuing new licenses for any outpatient methadone treatment facility.

The House gave final reading to H.4383, the *SC Campus Sexual Assault Information Act*. The bill requires each South Carolina institution of higher learning (defined as a public or private two-year or four-year college, community or junior college, technical school, or university) establish and implement a written campus sexual assault policy which includes a campus sexual assault program and which includes procedures to be followed once a sexual assault occurs. The bill also provides minimum areas that must be addressed in such a policy, including prevention and awareness education programs, possible sanctions following the final determination of an institutional disciplinary procedure, procedures a student follows if a sexual assault occurs, and procedures for institutional disciplinary action in cases of alleged sexual assault. The bill requires that each institution of higher learning distribute to students, faculty and staff the written campus sexual assault policy, and the bill provides methods of distribution

and requirements and methods for notifying students that the written policy is available. Additionally, the bill requires that the written policy must be made available to a student who reports being a victim of a sexual assault involving another student or occurring on campus, and the bill requires that each institution must make available to all students a description of jurisdiction, procedures, and time deadlines of institutional disciplinary procedures.

The House amended and returned to the Senate S.567 which rewrites the practice act for cosmetologists, manicurists, and estheticians to make it conform to the administrative framework established for all boards and commissions administered by the Department of Labor, Licensing and Regulation (LLR). The bill revises the composition for the Board of Cosmetology to ensure representation of all professionals governed by the board. The definition of the term "Beauty Salon" is clarified. A definition is added for an "independent contractor." A new ground for disciplinary action is added for use of a substance or device that is not prescribed for cosmetic use by state or federal agencies. The bond requirement for a cosmetology school license is increased from \$5,000 to \$10,000. The House amended the bill to provide that no member of the Board of Cosmetology may conduct or be a provider of continuing education courses. The bill was also amended so as to exempt from the continuing education requirements those who have held a license for at least fifteen consecutive years and are at least sixty years of age. The bill was also amended so as to remove the advice and consent of the Senate from the appointment process of the Advisory Committee to the State Board of Cosmetology.

The House passed S.583, which requires respiratory therapists to be licensed rather than certified. By requiring licensure to practice respiratory care therapy, S.583 prohibits persons without a license from performing respiratory care therapy even if that person does not hold himself out to be a respiratory therapist. The bill also amends the definition of the term "Practice of Respiratory Care" to clarify the scope of practice for respiratory care therapists. Additionally, S.583 requires persons who are exempt from licensure to provide proof to the Board of Medical Examiners of formal training and evaluation of competence in performing certain functions. The bill deletes the exemption for hospital employees and adds an exemption for employees of durable medical equipment (DME) companies who deliver and set up respiratory equipment in a home setting. However, patient assessment in the home setting still must be performed by a licensed respiratory care practitioner or otherwise exempt person.

The House approved Joint Resolution H.4549 which directs the Department of Mental Health to develop and submit to the General Assembly a proposal for the construction and operation of a nursing home facility for state veterans.

SENATE

The Senate amended and returned to the House H.3337, which provides each administrative law judge with the authority to appoint, hire, contract, and supervise his or her support staff. The bill also requires a solicitor to be licensed to practice law by the South Carolina Bar at the time of his election and throughout his term.

The Senate passed H.4458, which authorizes licensed practical nurses to provide certain services in residential settings and public schools without the on-site supervision of a doctor if certain procedures are followed. H.3470 also received third reading in the Senate; this bill conforms the name of the Department of Labor to the Government Restructuring Act and makes other technical changes.

The Senate gave third reading and sent to the House the following bills: S.863, concerning an inmate's eligibility for parole; S.534, relating to penalties for violating child labor regulations; S.605, relating to the transfer of part of one county to another; S.1031, which concerns the requirements for a STAR diploma and scholarship; and S.130, which revises the S.C. Pharmacy Practice Act.

The Senate spent much of the week debating S.850, entitled the South Carolina Performance and Accountability for Excellence in Teaching and Learning (Excel) Act. After the consideration of several amendments, the bill received third reading on Thursday, February 19, 1998. This school reform bill directs the Department of Education to provide assessment results on individual students and schools in a manner and format that is easily understood by parents and the public. By November 2000, baseline standards for schools must be established and beginning in 2001, five levels for accreditation must be defined, with schools to be designated as successful, proficient, acceptable, on notice, and challenged, based on the criteria established by the State Board of Education.

The bill sets forth actions which may be taken when a school is designated as challenged, including the appointment of a Specialist on Site. The specialist will demonstrate effective teaching methods, act as coach for improving classroom practices, and give support and training to identify critical questions regarding school improvement and professional development. To encourage and recruit teachers for assignment to schools on notice and to challenged schools, those assigned to such schools will receive their salary and a supplement equal to fifty percent of the current southeastern average teacher salary.

The bill requires an annual report card on schools to include information on comparisons, trends, needs, and performance over time which is helpful to parents and the public in evaluating the school. The State Board of Education must establish the Palmetto Platinum, Gold, Silver, and Bronze Award Program to recognize and reward schools for academic achievement. Schools and vocational centers would be rewarded with funding according to specific criteria.

The bill directs the State Board of Education to increase the delivery of quality technical assistance and professional development by establishing multi-school district regional centers for learning, teaching, and school leadership. The bill also directs the Board to establish regulations to fund alternate schools, which would provide appropriate services to middle or high school students who for academic or behavioral reasons are not benefiting from the regular school program.

The bill also requires the Department of Education to develop a program to provide a supplemental salary to teachers in the core academic areas who are selected to teach in schools designated as on notice or challenged. The supplement will be equal to twenty percent of the southeastern average teacher salary.

The bill also states that school districts which choose to reduce class size in full day kindergarten programs and in grades one through three are eligible for funding for the reduced pupil-teacher ratio as funds are made available from the General Assembly. A local match is required for the lower ratio funding based on the Education Finance Act formula. Boards of trustees of each school district may implement the lower pupil-teacher ratio on a school by school basis, but they must attain an average district pupil-teacher ratio of fifteen to one within three years of beginning the reduction in class size in that grade.

The House and the Senate will have to resolve differences between S.850 and H.4399, the House-passed Performance and Accountability Standards for Schools (PASS) Act.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee considered four bills: H.4383, H.4113, H.3150, and H.4346. The committee gave a favorable report to H.4383 (Rep. Cobb-Hunter). This bill, entitled the *SC Campus Sexual Assault Information Act*, which was approved by the full House (see House Week in Review, this issue).

The committee gave a favorable report with amendment to H.4113 (Rep. Altman). This bill provides that a South Carolina school district superintendent shall not receive a supplement or any other compensation from any nongovernmental source, nor may the same be offered. The bill also provides that violation of this provision is a misdemeanor punishable by fine or imprisonment, or both. The committee amended the bill to provide that school district superintendents in South Carolina may not receive "a salary supplement, salary compensation, or valuable consideration exceeding two hundred dollars or more..."

The committee gave a favorable report with amendments to H.3150 (Rep. Haskins). This bill defines the highways encompassing the interstate highway system and the state highway primary system, and revises the speed limits to seventy miles an hour on the interstate highway system and other officially posted freeways; sixty miles an hour on officially posted multilane divided primary highways; fifty-five miles an hour in other locations or on other sections of highways. Maximum speed in an "urban district" is thirty miles an hour, and

unpaved roads are limited to the speed of forty-five miles an hour. The bill also revises the language on signs posted in a work zone and provides that the penalty contained on signs posted in a work zone are in addition to other penalties for speeding. Committee amendments to the bill include the addition of a provision that manufactured modular or mobile homes must not be transported at a speed in excess of ten miles below the posted speed limit and never in excess of fifty-five miles an hour; and the addition of a provision that a local authority, under certain conditions, may determine that the maximum speed limit permitted is less than thirty miles an hour in an urban district. The Committee also amended the bill by changing the wording on active work zone signage to provide a \$200 fine or 30 days, or both for speeding. The original bill provided a \$200 fine and 30 days.

The Committee gave a favorable report with amendment to H.4346 (Rep. Stuart). This bill adds sections to the *South Carolina Code of Laws* providing that before the Department of Public Safety (DPS) produces and distributes a special license plate created by the General Assembly after January 1, 1998, DPS must receive 1) 400 prepaid applications for the plate or a deposit of \$4,000 from the individual or organization seeking issuance of the plate; and 2) a marketing plan for sale of the plate, which plan must be approved by DPS. The bill further provides that if DPS receives less than 300 biennial applications and renewals for a particular special license plate, it shall not produce additional plates in that series.

This bill also provides that a school may request a change in the emblem, seal, or other symbol imprinted on the special plate once the existing inventory of the license plate has been exhausted. Current law provides that a school may request this change "not more than once every five years.

The Committee amended the bill by striking the January 1, 1998 creation date for the special plates. The Committee also increased from 300 to 400 the minimum number of biennial applications and renewals for a particular license plate that must be received before DPS produces additional plates in that series.

JUDICIARY

The Judiciary Committee passed H.3382, which provides for the legality of antique slot machines made before January 1, 1965, which are kept by the owner in his principal residence and not used for commercial or gaming purposes.

The full committee also passed H.4445, which concerns foster children. Current law requires caseworkers from the Department of Social Services (D.S.S.) to personally contact foster children. This bill stipulates that the contacts must be personal, face-to-face visits. The visits may be conducted in the foster home and in the presence of other persons who reside in the home, but if the caseworker suspects the child has been abused or neglected, the observation and interview of the child must be conducted outside the presence of other persons who reside in the foster home.

Furthermore, the bill requires the caseworker to conduct an interview with the foster parent, either in person or by telephone, at least once a month, and the caseworker must conduct a

personal, face-to-face interview at least once each quarter with each adult who resides in the foster home. Foster parents must make themselves reasonably available for the interviews and unreasonable noncompliance constitutes grounds for revocation of a foster parent's license.

An amendment to H.4445 concerns the placement of a child after removal from the custody of the parents or guardian. The amendment states that the plan for a child's placement must include a determination of whether it is in the child's best interest for the parents, guardian, or any other person to know of the nature and location of the child's placement. D.S.S. must consider evidence of sexual or physical abuse or substance abuse by an adult living in the child's home, or criminal domestic violence in the child's home in making a determination whether disclosure of the location of the placement is in the best interest of the child. When disclosure of the location of the placement is determined to be contrary to the best interest of the child, disclosure must not be made to the abusing party, or to any other member of the abusing party's household.

The Judiciary Committee also amended and sent H.4468 to the House floor. One portion of this bill concerns out of court statements made by certain children. Under state law, out-of-court statements concerning neglect or abuse made by children under age 12 are admissible in family court proceedings. This bill expands the admissibility of out-of-court statements made by children to include those statements concerning an act of alleged abuse or neglect made by children (over age 12) who function cognitively, adaptively, or developmentally under the age of 12.

H.4468 also amends several sections of the Children's Code. Included in the amendments are revisions concerning procedures relating to emergency protective custody of abused children. The family court must schedule a probable cause hearing to be held within 72 hours of the time the child was taken into emergency protective custody. At the probable cause hearing, the court must set the time and date for the hearing on the merits. The hearing on the merits may be continued only where exceptional circumstances exist, and the hearing must be completed within 65 days following receipt of the removal petition. Failure to hold a hearing within 65 days after the petition is filed results in a failure of jurisdiction, and the child must be returned to his parents or guardian. The time frame for holding the hearing on the merits is a jurisdictional requirement and may not be waived by any party.

The bill states that a child in the custody of D.S.S. is entitled to attend public school without charge if the child had been attending the school prior to being taken into custody, if D.S.S. places the child outside the school district in a foster home, or if D.S.S. determines that it is in the child's best interest to continue attending the school. The child must maintain a satisfactory scholastic and disciplinary record.

State law requires certain professionals (for example, physicians, teachers, funeral home employees) to report suspected child abuse to a law enforcement agency. The bill states that if a person required to report has received information in his professional capacity which gives him reason to believe that a child's physical or mental health has been adversely affected, a report must be made to the appropriate law enforcement agency. A report should be given if the reporter believes the child's welfare may have been adversely affected by a person other than the parent, guardian, or other party responsible for the child's welfare. The identity of a

party making a report must be kept in strict confidence. Although D.S.S. must identify a reporter when the department refers a report to a law enforcement agency for a criminal investigation, the agency must not disclose that the person was the reporter to any person other than an employee of the agency involved in the criminal investigation.

A person required or permitted to report suspected child abuse who participates in an investigation or judicial proceedings resulting from the report, while acting in good faith, is immune from civil and criminal liability which might otherwise result from his actions. The bill states this immunity extends to full disclosure of facts which gave the person reason to believe the child's health had been or might be adversely affected by abuse or neglect.

LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee met on Tuesday, February 17, and passed out four bills. The Committee gave a report of favorable with amendment to H.4569 which requires licensing, rather than the current registration, of mortgage loan brokers and originators, and establishes continuing education requirements. This bill provides that, beginning September 30, 1998, a mortgage loan broker must complete at least twelve hours of continuing professional education annually, and an originator must complete at least six hours of such education annually. Failure to complete continuing education requirements will result in the expiration of the license without an administrative hearing and a penalty not to exceed one hundred dollars for renewal. In order to qualify for licensure as a mortgage loan broker, an individual must have at least two years experience working as an originator under the supervision of a mortgage loan broker, or other specified equivalent experience. However, all mortgage loan brokers properly licensed as of October 1, 1998, may continue without showing proof of such experience, so long as they comply with the continuing education requirements imposed under the bill. A fee of twenty-five dollars for each originator is added to the annual renewal fee. An originator is defined as an employee of a mortgage loan broker whose primary job responsibilities include direct contact with, and the informing of, loan applicants of the rates, terms, disclosure, and other aspects of the mortgage. The committee amendment allows a license to be refused to an individual who has been convicted of, pled guilty of, or pled *nolo contendere* to specified offenses within the past ten, rather than the current five, years. The committee amendment also retains current dollar amounts for the initial licensure fee and renewal fee for a mortgage loan broker which the bill, as introduced, increases.

The Committee gave a favorable report to H.4543 which conforms South Carolina law to Federal law by setting the maximum allowed amounts of a bank's loans to borrowers as percentages of the bank's "unimpaired capital." "Unimpaired capital" is defined.

The Committee gave a majority favorable with amendment/ minority unfavorable report to H.4354 which revises the appointment process for members of the State Board of Financial Institutions so as to reflect the merger of the State Savings and Loan League with the South Carolina Bankers Association. The two member positions on the Board of Financial Institutions recommended by the former State Savings and Loan League are reassigned to the Bankers Association, raising the Association's total of recommendations from three to five. The proposed amendment provides that, of the five member positions recommended by the Bankers Association, three members must be engaged in the banking business and two members must

be engaged in the savings and loan business. The bill provides that the State Treasurer is to serve as chairman as well as an *ex officio* member.

The Committee also gave a report of favorable with amendment to H.3792 which was approved by the full House (see House Week in Review, this issue).

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee met on Tuesday, February 17, and gave favorable reports to three bills: H.3760, H.4381, and S.583.

H.3760 requires an unmarried pregnant female under 18 to attend a free pregnancy prevention education course offered at a local health department. The bill requires the Department of Health and Environmental Control (DHEC) to specify the content of the course, which must include information on birth control methods and sexually transmitted diseases. Health care professionals who provide care to these teenagers must refer them to the appropriate county health department and inform them that attendance and completion of this course is a required component of their care. The amendment to H.3760 directs DHEC to report to the General Assembly by January 1, 1999 on the cost to develop and implement a comparable pregnancy and sexually transmitted disease prevention education course for males.

The Committee also gave a favorable report to H.4381, which requires an entity that receives funds for domestic violence programs from the Department of Social Services (DSS) to comply with the treatment program standards in DSS's Battered Spouse Program Plan. This plan details DSS's initiatives to meet the needs of under-served areas in the state and outlines requirements for provider agencies.

The Committee also gave a favorable report to S.583 which was approved by the full House (see House Week in Review, this issue).

WAYS AND MEANS

The Ways and Means Committee met throughout the week and completed its work on the 1998-99 Appropriation Bill. The bill will be printed and placed on the desks of House members prior to floor debate, which is scheduled to begin on Monday, March 2. The Committee will present a briefing on the bill on Wednesday, February 25 at 3:00. Information packets will be provided at that time.

After revenue enhancements and adjustments, including a \$52.4 million reduction in available revenue resulting from the Committee's decision to eliminate consideration of expected video poker revenue, the total available recurring revenue for 1998-99 is \$257 million. The following figures do not include appropriations from the Capital Reserve Fund or Fiscal Year 1997-98 projected surplus funds, which are to be considered at a later date.

Highlights of the Committee's recommendations for appropriating those funds include, but are not limited to:

STATEWIDE APPROPRIATIONS:

State Health Insurance Rate Increase	\$21.0 million
State Employee 2% Pay Increase- (Effective 10/1/98)	23.5 million
Property Tax Relief-Annualization and Growth	20.6 million
General Reserve Fund	7.2 million
Capital Reserve Fund	4.8 million
Debt Service	2.5 million
Property Tax Relief-Reduced Manufacturing Depreciation (2nd of 3 year phase-in)	10.9 million
Homestead Exemption Projected Growth	1.4 million

The Committee appropriated \$1.5 million to annualize only the 1997-98 state employee pay increases at the Department of Public Safety and the Department of Corrections. Other state agencies must find the remaining \$7.8 million needed for pay increase annualization within their existing budgets.

PUBLIC EDUCATION:

New, recurring public education funding in the Ways and Means budget totals \$90.3 million in General Funds and \$25 million in Education Improvement Act funds. Appropriations from these funds include, *but are not limited to*: an increase of \$39 million in funding to cover fringes and the Education Finance Act base student cost of \$1,879 (2.2% inflation) and 786,060 Weighted Pupil Units; \$4 million for 62 school buses; \$14.4 million to phase in the Performance and Accountability Standards for Schools (PASS) initiative; \$17.98 million for final year phase-in for full-day kindergarten (includes \$3.7 million for fringes); \$6.1 million for textbooks; \$1.6 million start-up/operational funding for the year-round Governor's School for the Arts and Humanities; \$4.2 million to help cover costs resulting from the increase in credits required to graduate from high school; \$5.9 million for basic skills-academic assistance (under Act 135 of 1993); \$9 million to keep teachers' salaries above the Southeastern average (Southeastern average salary has increased from \$33,547 to \$34,565); \$1 million to fund the 1997 Assisting, Developing, and Evaluating Professional Teaching (ADEPT) legislative initiative; and \$437,900 to fund giving all tenth graders the opportunity to take the Preliminary Scholastic Aptitude Test (PSAT) or the preliminary test for the American College Test.

HIGHER EDUCATION: The Committee's \$32.6 million recurring appropriation in higher education includes, but is not limited to \$19 million for the Legislative Incentives for Future Excellence (LIFE) Scholarship initiative, which passed the House earlier this session; \$6 million for performance/formula funding; \$2 million for special schools' annualizations; \$2.5 million for EPSCoR (Experimental Program to Stimulate Competitive Research); and \$900,000 for tuition grants.

HEALTH: The Committee's \$24.4 million recurring appropriation in this area includes, but is not limited to \$15.4 million to annualize the current year's funding for Health and Human Services; \$4 million for nursing home rate adjustment; \$1.1 million for rural health clinic growth; \$1.6 million for supplemental Medicare insurance premium increase; and \$919,000 for Medicaid match rate change.

ECONOMIC DEVELOPMENT: Recurring appropriations total \$2.5 million, including \$1.5 million to Clemson Public Service Authority; \$500,000 to the Department of Commerce for employee incentives and \$500,000 to the Department of Commerce for advertising.

CRIMINAL JUSTICE: Recurring appropriations total \$13.8 million, including but not limited to \$2.4 million to the Judicial Department for annualization of judges and staff, annualization of tiered judges' salaries, judges' expense allowance, judicial commitment, and court appointed funding; \$158,000 to SLED for forensic lab equipment; \$255,868 to the Attorney General's Office for Medicaid fraud control, capital litigation, and prevention of violence against women; \$500,000 to the Prosecution Coordination Commission for Judicial Circuit state support; \$2.5 million to the Department of Corrections for operating funds and for the substance abuse facility at Lee; \$2.6 million to the Department of Probation, Parole and Pardon Services for annualizations and restitution collection; \$5.2 million to the Department of Juvenile Justice for annualization of 1997-98 funding.

TRANSPORTATION: No new funding recommended.

LEGISLATIVE/EXECUTIVE: After factoring in the Committee's \$1 million in recommended legislative/executive budget reductions, the recurring funds appropriated in this area result in new funding of slightly over \$1 million. Recommendations for new funding include \$530,622 to the Adjutant General's Office for State match for FEMA funds; \$1.5 million to the State Budget and Control Board for Capitol Complex rent; and \$37,482 to the State Ethics Commission for one investigator. Budget cuts include \$300,000 reduction to Legislative Printing; \$200,000 reduction to the Reorganization Commission; \$50,000 reduction to Administrative Law Judge base; \$50,000 reduction in Total Quality Management Funds under the Budget and Control Board; and \$400,000 base reduction to the Department of Revenue.

Major provisos in the 1998-99 Ways and Means bill include, but are not limited to: A ban of video poker (included in both Part I and Part II - also passed the House as separate legislation); removal of the Palmetto Unified School District 1 of the SC Department of Corrections from eligibility for funding under the Education Finance Act (although it would still be eligible for adult education funding through the SC Department of Education); the LIFE Scholarship initiative (which has already passed the House as a separate bill); an extension of the steps in the State Minimum Salary Schedule for teachers, from seventeen to twenty years by one-year increments (each additional year will be increased by one percent over the previous year); and the Performance and Accountability Standards for Schools (PASS) initiative, which has already passed the House as a separate bill.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4655 STATE SOLID WASTE MANAGEMENT Rep. Sharpe

South Carolina sets goals to reduce the flow of solid waste being disposed in municipal solid waste landfills and incinerators. The initial goal was to decrease municipal solid waste by 30% by May 27, 1997. This bill increases the municipal percentage goal to 40% by June 30, 2005. The statewide percentage goal to recycle municipal solid waste stream generated in this State is increased from 25% by May 27, 1997, to 35% by June 30, 2005. The bill also requires the State to continue setting goals for solid waste recycling and waste reduction after June 30, 2005.

The bill adds a definition for municipal solid waste and authorizes the Department of Health and Environmental Control (DHEC) to establish procedures and promulgate regulations necessary to obtain recycling data. These procedures may include registration of recyclers, a requirement for recyclers to submit annual reports showing the county where the materials are generated, and the amounts of materials recycled.

A manufacturer or distributor of containers produced from a plastic resin may adopt a labeling classification number and letter that will assist in the segregation and collection of that resin for recycling if the code number and letter used are nationally recognized industry standards.

H.4654 ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL RESOURCES Rep. Sharpe

This bill deletes the current provision of law which allows the Department of Natural Resources to contract with enforcement officers. The bill also allows the director of DNR to remove an appointed officer at his discretion. Presently, only DNR's governing board is authorized to remove an appointed enforcement officer upon satisfactory proof that he is not fit for the position.

H.4665 HUNTING AND FISHING LICENSE FOR DISABLED PERSONS Rep. Hawkins

This bill amends the criteria for a disabled person to receive a free statewide fishing and hunting license. Presently, to receive the free licenses, a disabled person must be determined to be totally disabled under a program for social security, federal civil service, the South Carolina Retirement System, the Railroad Retirement Board, the Veterans Administration, or Medicaid assistance. The bill allows a disabled person to receive the free licenses upon production of a certificate from a licensed doctor of medicine that the person is disabled. A disabled person may work and still qualify for a free license or a renewal.

S.852 THE JOCASSEE GORGES TRUST FUND Sen. Martin

The Jocassee Gorges consist of Lake Jocassee and other tracts of land owned by the Department of Natural Resources in Oconee and Pickens counties. This bill creates the South Carolina Jocassee Gorges Trust Fund. Fund assets are derived from the proceeds of gifts, grants, and contributions to the State designated for the Fund. The income and principal

accrued from investments of the fund will be used to support the operation, maintenance, and acquisition of land in the vicinity of Lake Jocassee.

The Fund will be administered by the Board of Trustees for the Jocassee George Trust Fund, whose members are the chairman and members of the Board of the Department of Natural Resources. The State Treasurer is custodian of the fund. Any sale, trade, lease, or mortgage of Jocassee Gorges land must be approved by the General Assembly.

H.4640 PESTICIDE PROPELLANT EQUIPMENT Rep. Rhoad

This joint resolution mandates that all compressed gas tanks and cylinders used to supply propellant for pesticides be equipped with properly functioning back flow prevention devices to prevent the entry of pesticide into the compressed tank or cylinder. Pesticide operations must cease before the tank or cylinder pressure falls below twice the system operating pressure, or 200 psi, whichever is greater. This resolution remains effective until the State Crop Pest Commission promulgates regulations addressing the matter.

EDUCATION AND PUBLIC WORKS

S.198 HANDICAPPED PARKING SPACES Sen. Cork

This bill requires that handicapped parking signs erected after June 30, 1998, must include the fine for unlawful use of a handicapped parking place. The bill specifies information that must be included on the sign, including but not limited to the amount of the penalty for violation. The bill allows political subdivisions or private property owners to exhaust any existing stock of signs that do not include the fine before compliance is required.

H.4642 REQUIREMENTS FOR OBTAINING A REGULAR DRIVER'S LICENSE Rep. Townsend

This bill amends *Act 258* of 1998, which became law on January 15 of this year. The bill adds language to *Act 258* providing that a person who holds a valid restricted driver's license on July 1, 1998, may obtain a regular driver's license before the age of seventeen if, after one year from the date of issuance of the special restricted license, the driver has not been convicted of a point-assessable traffic offense posted to his driving record during that period.

JUDICIARY

H.4631 SCHOOL SAFETY ACT Rep. Fleming

The South Carolina School Safety Act of 1998 allows the governing body of a municipality or county to designate school resource officers to work within the local government's school systems. The bill provides the school resource officer with statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event.

Current law requires school administrators to contact law enforcement officers immediately upon notice that a person is engaging or about to engage in school-related crime. This bill states that the failure of a school administrator to report the criminal conduct will subject the administrator and the school district to liability to pay a party's attorney's fees and the costs associated with an action to compel compliance with the reporting requirements.

The bill also adds notification requirements if a student has been convicted of a weapons offense. The appropriate agency (for example, the Department of Juvenile Justice) or the clerk of court (if the student is not sentenced to probation or incarceration) is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school where the student is enrolled. A weapon for purposes of this section is defined as any firearm, knife with a blade-length of over two inches, dirk, razor, metal knuckles, slingshot, bludgeon, or any other deadly instrument used for the infliction of bodily harm.

H.4632 SOUTH CAROLINA GANG VIOLENCE ACT Rep. Fleming

The S.C. Gang Violence Act defines a "criminal gang" as an ongoing association of three or more persons engaged in two or more of the following: (1) criminal activity which may or may not involve the commission of one or more predicate gang crimes; (2) having a common name or identifying sign or symbol; or (3) having members engaged or having been engaged during the five-year period in a pattern of criminal gang activity. The bill authorizes a law enforcement officer to arrest, with or without a warrant, a person if the officer has probable cause to believe that the person is committing or has committed a predicate gang crime.

The bill states that a person who engages in a pattern of criminal gang activity is guilty of a felony and must be imprisoned for at least 10 years for a first offense and at least 20 years for a second offense. One who recruits another person to be a member of a criminal street gang is guilty of a felony and, upon conviction, must be imprisoned at least 4 years if the recruit is a minor or at least 1 year if the recruit is not a minor. A person convicted of a predicate gang crime or any other statutory or common law crime who is identified as a criminal gang member must be imprisoned for at least 1 year and not more than 5 years and/or fined in the discretion of the court, in addition to any other punishment contained in the article.

The bill also states that it is unlawful for a criminal gang member, by presence or appearance, to intimidate or impede a judge, magistrate, juror, witness, or to obstruct or impede the administration of justice in any court.

H.4633 LITTERING Rep. Barrett

This bill would assign points to a person's drivers license or to a person's hunting and fishing license for littering. A person who litters while operating a motor vehicle would be charged with a 6 point violation on his drivers license. A person who litters while hunting or fishing would be charged with an 18 point violation on his hunting or fishing license.

S.865 FAMILY COURT JUDGES Sen. McConnell

Current law states that, notwithstanding any other provision of law, a former member of the General Assembly may be elected to a family court judgeship. This bill repeals the exception for former members of the General Assembly so that all family court judges must meet the statutory requirements, including the provision requiring family court judge to have been licensed as an attorney for at least eight years.

S.948 PROHIBITION AGAINST MARRIAGES Sen. Ford

This Joint Resolution proposes to amend the South Carolina Constitution by deleting the language prohibiting marriage between Caucasian and African-American persons. The House has passed H.4303, which also proposes an amendment to repeal the same language.

H.4643 STATEMENT OF ECONOMIC INTERESTS Rep. Cromer

Elected officials and certain public employees are required to file a statement of economic interests with the State Ethics Commission. This bill requires the statements to be filed electronically when possible.

H.4645 SIZE OF ALCOHOLIC LIQUOR CONTAINERS Rep. Klauber

Current law states that no retail dealer may own or keep in his possession alcoholic liquors in separate containers containing less than 200 milliliters. Under the provisions of this bill, a retail dealer could keep in his possession alcoholic liquors in separate containers containing 100 milliliters.

H.4646 VOTING BY ARMED SERVICE PERSONNEL Rep. Harrison

This bill gives the State Election Commission the authority to establish, in cooperation with the Federal Voting Assistance Program, a pilot project for the purposes of permitting armed forces personnel and overseas citizens to transmit their votes to the election authority over an electronic medium using the Internet. For purposes of this project, armed forces personnel and overseas citizens are entitled to cast and have counted votes for only those candidates and questions for which they would be eligible to cast an absentee ballot.

The State Election Commission must rely on procedures established by the U.S. Department of Defense for security, secrecy, and validation of votes, and are not subject to civil liability or criminal penalty for following these procedures. This new section could not be construed to create any grounds for a recount or election contest not otherwise provided for.

H.4647 CONTEMPT OF COURT Rep. Barfield

This bill concerns persons who are the subject of a temporary restraining order, an order of protection, or any other injunction issued by any court of justice in this State. Under the provisions of the bill, if a person wilfully violates any order or injunction, he may be punished by the imposition of criminal contempt penalties at the discretion of the court.

H.4651 LOT ZONING Rep. Edge

This bill provides that a lot comprising a parcel of real property which is smaller than two contiguous acres must be zoned so that it is included totally within one zoning district.

H.4653 DRIVING PENALTIES Rep. Edge

Under current law, a person who drives a motor vehicle in South Carolina when his license to drive is canceled, suspended, or revoked, upon conviction, must be fined \$200 or imprisoned for 30 days for the first violation, for the second violation fined \$500 and imprisoned for 60 consecutive days, and for the third and subsequent violation imprisoned for at least 90 days and up to 6 months.

Under the provisions of this legislation, a conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail, for the violation of law (in this or another state) that prohibits a person from operating a motor vehicle while his license is canceled, suspended, or revoked is a prior offense for the purpose of a prosecution of a subsequent violation.

H.4657 SCRATCH AND WIN CARDS Rep. Davenport

This bill provides that it is unlawful to offer for sale "scratch and win" cards or to require a person to purchase an item in order to receive a "scratch and win" card. A person who violates the prohibition is guilty of a misdemeanor and must be fined not less than \$10,000.

S.605 ANNEXATION Sen. Cork

This bill concerns the annexation of part of one county by another. Under current law, whenever the governing body of a county requests that a part of the county be merged with an adjoining county or whenever 10 percent of the registered voters in an area of one county petition for the area be transferred to another county, the county governing body or the petitioners must deposit an amount of money with the clerk of court sufficient to cover various expenses (including election expenses) associated with the annexation.

Under the provisions of this bill, where the area proposed to be annexed is less than 5,000 acres in size or where the area to be annexed has a population ratio of less than 1 elector for each 10 acres, the county governing body of the county from which the area is proposed to be transferred must approve by resolution the annexation petition. A copy of the approving resolution must accompany the petition when the petition is filed in the office of the clerk of court of the county and transmitted to the Governor.

S.863 CRIMINAL DOMESTIC VIOLENCE Sen. Holland

This bill states that an inmate who presents credible evidence of a history of criminal domestic violence in post-conviction proceedings pertaining to the inmate's plea or conviction is eligible for parole after serving one-fourth of his or her prison term.

H.4669 STATEMENT OF ECONOMIC INTEREST Rep. Wilkins

Current law requires statements of economic interests filed by public officials with the State Ethics Commission to include a listing by name and address of each creditor to whom the filer or member of the filer's immediate family owed a debt over \$500 at any time during the reporting period. However, a provision in the law mandates that the reporting requirement applies if the creditor is subject to regulation by the filer or is seeking a business or financial arrangement with the filer's agency or department. This bill deletes that provision.

H.4670 FILING DEADLINE FOR CANDIDATES Rep. Wilkins

To qualify as a candidate in the general election, all persons seeking nomination by political party primary or political party convention must file a statement of intention of candidacy between noon on March 16 and noon on March 30. This bill changes the date for filing the notice or pledge to between February 1 and February 16.

The bill also requires the county committees to transmit to the state committees no later than February 16 all filings for candidates seeking nomination for the state Senate or House of Representatives. In addition, each candidate for selection as a nominee of any political party for any state office, U.S. Senator, member of Congress or solicitor, in order to be voted for in a primary election, must file with the treasurer of the state committee notice of candidacy by February 16. Every state Senate and House candidate, for selection in a primary election as the nominee of any political party, and all county and township offices also must file their notice of candidacy with the county chairman by February 16.

H.4671 MORTGAGE TRANSACTIONS Rep. Harrison

A mortgage is an interest in property given by the debtor (the mortgagor) to the creditor (the mortgagee).

Under the provisions of this bill, the mortgagee is responsible for recording the satisfaction of a mortgage once it has been paid in full, written request for satisfaction has been made, and any required satisfaction fee has been paid. If the mortgagee fails to do so after the requirements have been fulfilled, it must pay a penalty of \$100 to the mortgagor. Failure to pay the \$100 penalty within 10 days after demand subjects the mortgagee to additional penalties of \$100 for each 10 days the penalty remains unpaid, up to a total penalty of \$3,000.

The bill also repeals S.C. Code Section 29-3-320, which provides that a person may recover up to one half of the amount of the debt when a mortgagee fails to enter satisfaction of a mortgage within three months of a request to do so and the payment of the necessary fees.

H.4663 PISTOLS Rep. Moody-Lawrence

This bill requires an owner of a pistol to maintain his pistol in a locked compartment or to have a trigger lock placed on the pistol when it is not in use. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than 1 year or fined not more than \$1,000.

H.4664 FREEDOM OF INFORMATION ACT EXEMPTION Rep. Klauber

This bill exempts certain information from disclosure under the provisions of the Freedom of Information Act. The bill exempts information of a proprietary nature, produced or collected by or for faculty or staff of state institutions of higher learning. The exemption applies when the information results from research on commercial, scientific, technical, or scholarly issues, where the data, records, or information has not been publicly released, published, copyrighted, or patented.

H.4666 CONDITIONAL RELEASE OF JUVENILES Rep. Campsen

Current law provides that a juvenile who has been conditionally released from a correctional school must remain under the authority of the parole board until the expiration of the specified term imposed in the juvenile's conditional aftercare release. The specified period of conditional release may expire before but not after the nineteenth birthday of the juvenile.

This bill states that the specified period of conditional release may expire before but not after the twenty-first birthday of the juvenile.

H.4667 POWERS OF THE COUNTY LEGISLATIVE DELEGATIONS Rep. Rodgers

This bill places all the powers granted by statute or resolution to any county legislative delegation which affect only one county with that county's governing body, provided the respective delegation consents. The provisions of this bill would not apply to the powers of legislative delegations with regard to statewide or regional boards, commissions, authorities, or any other governmental entity that has representatives on its governing body from more than one county.

LABOR, COMMERCE AND INDUSTRY

H.4635 HEALTH PLAN PURCHASING COOPERATIVES Rep. Edge

This bill authorizes the Director of the Department of Insurance to issue certificates of authority to nonprofit corporations which allow the corporations to act as health plan purchasing cooperatives for geographic areas of the state. Such a health plan purchasing cooperative shall serve a geographic area which encompasses one entire county or more than one entire contiguous county. Service areas are nonexclusive, and no limit is placed upon the number of purchasing cooperatives authorized to service a particular geographic area. A cooperative is authorized to purchase health benefit plan coverage and certain other itemized services for the individuals and employers who enroll as members of the cooperative. Cooperatives must report to the Insurance Director annually, and, in the case of cooperatives having greater than one hundred thousand enrollees, the Director is authorized to disallow further enrollment should he find that further growth of the cooperative would adversely affect the availability of private health benefit plan coverage offered outside the cooperative's geographic service area.

S.534 CHILD LABOR VIOLATIONS Sen. Hayes

This bill revises fines for violations of regulations prohibiting oppressive child labor. Under current law, an employer who violates the child labor regulations is issued a written warning for a first offense and fined not less than ten dollars nor more than fifty dollars for each subsequent offense. The bill eliminates these punishments, and instead provides the Department of Labor, Licensing and Regulation with the option of a fine of no more than one thousand dollars for a first offense. For a second or subsequent offense, an employer may be fined not more than five thousand dollars per offense. The Director of the Department of Labor, Licensing and Regulation shall determine the amount of the penalty according to regulations promulgated by the department which base penalties on the size of the business of the violator, the gravity of the violation, the good faith of the employer, and the history of previous violations.

WAYS AND MEANS

H.4634 TAXES ON CERTAIN PERSONAL PROPERTY Rep. Sandifer

This bill provides that when ownership of personal property required to be titled by a state or federal agency (not including motor vehicles or units of manufactured housing) is transferred, the transferor's property tax year for the property ends on the transfer date and a new property tax year begins for the transferee. The bill provides for prorating the taxes due. The provisions of the bill apply only if the transferor files with the auditor before the first penalty date for property taxes a form designed by the Department of Revenue, signed by the transferee, in which the transferor assumes personal liability for his share of the taxes, and which provides that information necessary to prorate and bill the taxes.

H.4638 PURCHASE OF STATE FLEET VEHICLES Rep. Cobb-Hunter

This bill requires that before a state fleet sedan or station wagon is disposed of, the vehicle must be offered for purchase to heads of households receiving Aid to Families with Dependent Children (AFDC) or to non-profit agencies working with families receiving AFDC for the purpose of assisting the families in becoming self-sufficient.

H.4644 APPOINTED PRIVATE COUNSEL IN NON-CAPITAL CASES Rep. Quinn

This joint resolution requires that the State set aside \$1,500,000 annually to pay fees and expenses of private counsel appointed in non-capital cases.

H.4652 RETIREMENT ACCOUNT INCOME TAX CREDITS Rep. Edge

This bill amends current law concerning credit for income tax paid by a South Carolina resident to another state. The bill allows a resident individual a credit for income taxes on funds withdrawn from a retirement account when taxes on those funds were paid to another state before their contribution to the retirement account. Documentation (as specified in the bill) of the funds paid to another state must be filed with the South Carolina return at the time the credit is claimed.

H.4660 APPROPRIATION FREEZE Rep. Quinn

This bill provides that appropriations of total recurring general fund revenues for the 1998-99 fiscal year may not exceed the total of recurring general fund appropriations for fiscal year 1997-98, except for appropriations for education, employee pay raises, and debt service.

H.4661 PERSONAL PROPERTY TAX RELIEF FUND Rep. Quinn

This bill establishes in the State Treasury a separate and distinct Personal Property Tax Relief Fund (the Fund). The bill requires that the Board of Economic Advisors (BEA) annually remove from its estimated revenue projection for the next fiscal year, thirty percent of projected year-to-year general fund revenue growth plus the total of all amounts previously credited to the Personal Property Tax Relief Fund by transfer. The bill requires that the State Budget and Control Board transfer at the beginning of each fiscal year to the Fund all such amounts removed from the general fund revenue estimate. The bill requires that from revenues credited to the Fund, the Department of Revenue must calculate and prescribe a uniform percentage of fair market value of personal property that is exempt from property tax for each tax year. The bill provides that when monies in the Fund equal the "total base payment" (an amount equal to the total revenue received by all SC taxing entities from nondelinquent property tax on personal property collected in the 1998 calendar year), then for that year and subsequent years personal property is wholly exempt from property tax.

The bill provides for phase-in of the exemption, and prohibits the millage exceeding the 1998 property tax millage rate. The bill also provides for reimbursement to taxing entities.

The provisions of the bill take effect upon ratification of an amendment to the SC Constitution providing for the separate assessment of property taxes on certain property classified as "all other personal property" and which fixes the millage rate imposed on such property to no more than the millage rate imposed on it for property tax years beginning in 1998 (see H.4662, below). Upon such ratification, the exemption as added by this bill first applies for the 1999 property tax year except that for motor vehicles paid in advance, the exemption first applies for motor vehicle tax years beginning after June, 1999.

**H.4662 PROPOSED CONSTITUTIONAL AMENDMENT REGARDING
PROPERTY CLASSIFICATION Rep. Quinn**

This joint resolution proposes an amendment to the SC Constitution (to be submitted to the voters at the next general election) providing that property taxes imposed on property classified

as "all other personal property" for property tax years beginning after 1998 must be separately imposed at a uniform rate on all property in the class and at a rate that may not exceed the millage rate imposed on such property for any property tax year beginning in 1998.

H.4668 SALES TAX COMPUTATION ON FIRE TRUCKS Rep. Askins

This bill provides that for purposes of computing the maximum sales tax on the sale or lease of fire trucks, any equipment purchased from the same vendor and installed on that fire truck shall be considered part of the purchase or lease price of the fire truck.

H.4672 SALES TAX EXEMPTIONS Rep. Edge

This bill exempts from sales tax the sale or resale or the exchange of an interest in a vacation time sharing plan and a vacation multiple ownership interest.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpitr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.